

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CESAR QUINTERO CALLE,

Plaintiff,

v.

**FEDERAL BUREAU OF
INVESTIGATION, et al.,**

Defendants.

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Civil Action No. 3:10-CV-2362-M

**RECOMMENDATION REGARDING REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

Pursuant to Special Order No. 3-251, this case has been automatically referred for pretrial management.

Before the Court is Plaintiff's *Motion to Proceed On Appeal In Forma Pauperis*, received April 12, 2011 (doc. 27).

- (X) The request for leave to proceed *in forma pauperis* on appeal should be DENIED because the Court should certify pursuant to 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith because Plaintiff's appeal is an interlocutory appeal of an order denying the appointment of counsel (doc. 24). See 28 U.S.C. §§ 1291, 1292(a),(b). See also *McGrew v. Roundtree*, 385 Fed. Appx. 406 (5th Cir. July 20, 2010) (affirming the denial of IFP in an appeal of an interlocutory order); *Nellon v. Smith*, 239 F.3d 365 (5th Cir. Nov. 8, 2000)(unpublished) (dismissing an appeal of an unappealable interlocutory order for lack of jurisdiction); *Marler v. Adonis Health Products*, 997 F.2d 1141, 1144 (5th Cir. 1993) (holding that an order denying the appointment of counsel in a non-civil rights case is an unappealable interlocutory order).

If the Court denies the request to proceed *in forma pauperis* on appeal, Plaintiff may challenge the denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). See Fed. R. App. P. 24(a)(5).

SIGNED this 26th day of April, 2011.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE